

## § 1313.34

(1) The name, address, telephone number, telex number, and, where available, the facsimile number of the chemical exporter; the name, address, telephone number, telex number, and, where available, the facsimile number of the chemical importer;

(2) The name and description of each listed chemical as it appears on the label or container, the name of each listed chemical as it is designated in Section 1310.02 of this chapter, the size or weight of container, the number of containers, the net weight of each listed chemical given in kilograms or parts thereof, and the gross weight of the shipment given in kilograms or parts thereof;

(3) The proposed export date, the port of exportation, and the port of importation; and

(4) The name, address, telephone, telex, and where available, the facsimile number, of the consignee in the country where the chemical shipment is destined; the name(s) and address(es) of any intermediate consignee(s).

[60 FR 32465, June 22, 1995]

### § 1313.34 Distribution of the international transaction declaration.

The required three copies of the DEA Form 486 will be distributed as follows:

(a) Copies 1 and 3 shall be retained on file by the broker or trader as the official record of the international transaction. Declaration forms involving List I chemicals shall be retained for four years; declaration forms for two years.

(b) Copy 2 is the Drug Enforcement Administration copy used to fulfill the notification requirements of Section 1313.32.

[60 FR 32465, June 22, 1995; 60 FR 35264, July 6, 1995]

### § 1313.41 Suspension of shipments.

(a) The Administrator may suspend any importation or exportation of a chemical listed in §1310.02 of this chapter based on evidence that the chemical proposed to be imported or exported may be diverted to the clandestine manufacture of a controlled substance. If the Administrator so suspends, he shall provide written notice

## 21 CFR Ch. II (4-1-05 Edition)

of such suspension to the regulated person. Such notice shall contain a statement of the legal and factual basis for the order.

(b) Upon service of the order of suspension, the regulated person to whom the order applies under paragraph (a) of this section must, if he desires a hearing, file a written request for a hearing pursuant to §§ 1313.51-1313.57.

### HEARINGS

#### § 1313.51 Hearings generally.

In any case where a regulated person requests a hearing regarding the suspension of a shipment of a listed chemical, the procedures for such hearing shall be governed generally by the procedures set forth in the Administrative Procedure Act (5 U.S.C. 551-559) and specifically by section 6053 of the Chemical Diversion and Trafficking Act (Pub. L. 100-690), by 21 CFR 1313.52-1313.57, and by the procedures for administrative hearings under the Controlled Substances Act set forth in §§ 1316.41-1316.67 of this chapter.

#### § 1313.52 Purpose of hearing.

If requested by a person entitled to a hearing, the Administrator shall cause a hearing to be held for the purpose of receiving factual evidence regarding the issues involved in the suspension of shipments within 45 days of the date of the request, unless the requesting party requests an extension of time.

#### § 1313.53 Waiver of modification of rules.

The Administrator or the presiding officer (with respect to matters pending before him) may modify or waive any rule in this part by notice in advance of the hearing, if he determines that no party in the hearing will be unduly prejudiced and the ends of justice will thereby be served. Such notice of modification or waiver shall be made a part of the record of the hearing.

#### § 1313.54 Request for hearing.

(a) Any person entitled to a hearing pursuant to §1313.52 and desiring a hearing shall, within 30 days after receipt of the notice to suspend the shipment, file with the Administrator a written request for a hearing in the

form prescribed in § 1316.47 of this chapter.

(b) If any person entitled to a hearing or to participate in a hearing pursuant to § 1313.41 fails to file a request for a hearing or a notice of appearance, or if he so files and fails to appear at the hearing, he shall be deemed to have waived his opportunity for the hearing or to participate in the hearing, unless he shows good cause for such failure.

(c) If all persons entitled to a hearing or to participate in a hearing waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Administrator may cancel the hearing, if scheduled, and issue his final order pursuant to § 1313.57.

#### **§ 1313.55 Burden of proof.**

At any hearing regarding the suspension of shipments, the Agency shall have the burden of proving that the requirements of this part for such suspension are satisfied.

#### **§ 1313.56 Time and place of hearing.**

(a) If any regulated person requests a hearing on the suspension of shipments, a hearing will be scheduled no later than 45 days after the request is made, unless the regulated person requests an extension to this date.

(b) The hearing will commence at the place and time designated in the notice given pursuant to paragraph (a) of this section but thereafter it may be moved to a different place and may be continued from day to day or recessed to a later day without notice other than announcement thereof by the presiding officer at the hearing.

#### **§ 1313.57 Final order.**

As soon as practicable after the presiding officer has certified the record to the Administrator, the Administrator shall issue his order regarding the suspension of shipment. The order shall include the findings of fact and conclusions of law upon which the order is based. The Administrator shall serve one copy of his order upon each party in the hearing.

### **PARTS 1314–1315 [RESERVED]**

## **PART 1316—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES**

### **Subpart A—Administrative Inspections**

Sec.

- 1316.01 Scope of subpart A.
- 1316.02 Definitions.
- 1316.03 Authority to make inspections.
- 1316.04 Exclusion from inspection.
- 1316.05 Entry.
- 1316.06 Notice of inspection.
- 1316.07 Requirement for administrative inspection warrant; exceptions.
- 1316.08 Consent to inspection.
- 1316.09 Application for administrative inspection warrant.
- 1316.10 Administrative probable cause.
- 1316.11 Execution of warrants.
- 1316.12 Refusal to allow inspection with an administrative warrant.
- 1316.13 Frequency of administrative inspections.

### **Subpart B—Protection of Researchers and Research Subjects**

- 1316.21 Definitions.
- 1316.22 Exemption.
- 1316.23 Confidentiality of identity of research subjects.
- 1316.24 Exemption from prosecution for researchers.

### **Subpart C—Enforcement Proceedings**

- 1316.31 Authority for enforcement proceeding.
- 1316.32 Notice of proceeding; time and place.
- 1316.33 Conduct of proceeding.
- 1316.34 Records of proceeding.

### **Subpart D—Administrative Hearings**

- 1316.41 Scope of subpart D.
- 1316.42 Definitions.
- 1316.43 Information; special instructions.
- 1316.44 Waiver or modification of rules.
- 1316.45 Filings; address; hours.
- 1316.46 Inspection of record.
- 1316.47 Request for hearing.
- 1316.48 Notice of appearance.
- 1316.49 Waiver of hearing.
- 1316.50 Appearance; representation; authorization.
- 1316.51 Conduct of hearing and parties; ex parte communications.
- 1316.52 Presiding officer.
- 1316.53 Time and place of hearing.
- 1316.54 Prehearing conference.
- 1316.55 Prehearing ruling.
- 1316.56 Burden of proof.
- 1316.57 Submission of documentary evidence and affidavits and identification of witnesses subsequent to prehearing conference.